

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOSEMANY JEAN FRANCOIS

PETITIONER

v.

CIVIL ACTION NO. 1:23-cv-277-TBM-RPM

STATE OF MISSISSIPPI, *et al.*

RESPONDENTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the submission of the Report and Recommendation [25] entered by United States Magistrate Judge Robert P. Myers on May 15, 2025. Judge Myers recommends granting Respondents the State of Mississippi and Unknown B. Zeringue's Motion to Dismiss [19] and dismissing Petitioner Josemany Jean Francois' petition for writ of habeas corpus for disrupting the pending state criminal proceedings against him and for failing to exhaust his state remedies. Francois has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.

"[E]very litigant proceeding without legal counsel has a continuing obligation to notify the clerk of court of address changes." L. U. CIV. R. 11(a). A copy of the Report and Recommendation [25] was mailed to Francois at his address listed on the docket on May 15, 2025. But that mail was returned as Undeliverable on May 23, 2025, and marked as "Return to Sender, No Longer at This Facility, Unable to Forward." [26]. The docket reflects that Francois' current address is the Jackson County Adult Detention Center in Pascagoula, Mississippi, but Francois, whose last filing in this case was on January 10, 2025, has failed to notify the Court of a change of address.

When Francois filed his Petition for Writ of Habeas Corpus [1] and his Amended Petition for Writ of Habeas Corpus [8], his address was 8450 U.S. Highway 90, Bay St. Louis, MS 39520,

which is the Hancock County Public Safety Complex. Then, Francois mailed a letter to the Court on February 27, 2024, stating that he had been moved to the Jackson County Adult Detention Center at 65 Bruce Evans Drive, Pascagoula, MS 39567. [9], pps. 1-2. Each of Francois' subsequent filings [12], [14], [20] bears that address. If Francois has been moved out of the Jackson County facility, this Court has not been made aware of his new address, either by Francois himself or otherwise.

To be sure, the Notice of Assignment that was sent to Francois after he filed his first petition, notifying him of the judges assigned to his case, stated: "When there is a change of address for the plaintiff, the plaintiff must notify this Court in writing in a separate document The failure to advise this Court of a change of address . . . may result in the dismissal of your case." [1-2] (emphasis original). The Court recognizes that Francois' nonreceipt of the Report and Recommendation may have resulted in his failure to object to it. But it was Francois' responsibility to keep this Court aware of his address for the purpose of receiving filings. Thus, the Court proceeds on the basis that no timely objection was filed.

"When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b) advisory committee's note to 1983 addition (citations omitted); see *Casas v. Aduddell*, 404 F. App'x 879, 881 (5th Cir. 2010) ("When a party fails timely to file written objections to the magistrate judge's proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error") (citing *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir.

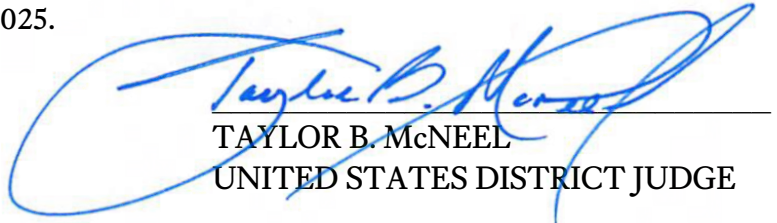
1996) (en banc); 28 U.S.C. § 636(b)(1)). Having considered Judge Myers' Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [25] entered by United States Magistrate Judge Robert P. Myers on May 15, 2025, is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that Respondents the State of Mississippi and Unknown B. Zeringue's Motion to Dismiss [19] is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that Petitioner Josemany Jean Francois' Petition for Writ of Habeas Corpus [1] and Amended Petition for Writ of Habeas Corpus [8] are DENIED.¹

THIS, the 6th day of June, 2025.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE

¹ Pursuant to the Magistrate Judge's Recommendation, Francois' habeas petition is denied WITH PREJUDICE as to any claims seeking dismissal of the charges against him in state court, but his petition is denied WITHOUT PREJUDICE in all other respects.